

AN ORDINANCE **101877**

**AUTHORIZING A LICENSE RENEWAL TO THE HEARST NEWSPAPERS PARTNERSHIP, L.P. (SAN ANTONIO EXPRESS NEWS) TO OCCUPY SPACE BENEATH THE SIDEWALK AT THIRD STREET AND AVE. E, ADJACENT TO NEW CITY BLOCK 427, LOCATED IN DISTRICT 1, FOR PAYMENT TO THE CITY OF SAN ANTONIO IN THE AMOUNT OF \$5,500.00.**

\* \* \* \* \*

**BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF SAN ANTONIO:**

**SECTION 1.** The City hereby authorizes and directs granting, on terms consistent with prior ordinances, a license to Hearst Newspapers Partnership, L.P.. to use public rights-of-way under Third Street Street and Avenue E for the purpose of a basement for a 10-year term.

**SECTION 2.** The City further hereby authorizes and directs the City Manager or her designee: (A) to execute and deliver (1) a License Agreement substantially in the form attached hereto as Exhibit A and (2) all other documents necessary or convenient to effect the transaction contemplated in the License Agreement; and (B) otherwise to do all things necessary or convenient to effect the transaction, including agreeing to non-material changes to the terms thereof.

**SECTION 3.** The proceeds of this Lease will be deposited into Fund 11001000 entitled the "General Fund," Internal Order 224000000002, entitled "License Agreements In ROW," and General Ledger Account 4202410, entitled "License Agreements-Use of ROW."

**SECTION 4.** The financial allocations in this Ordinance are subject to approval by the Director of Finance for the City of San Antonio for the City of San Antonio. The Director may, subject to concurrence by the City Manager or the City Manager's designee, correct allocations to specific Cost Centers, WBS Elements, Internal Orders, General Ledger Accounts, and Fund Numbers as necessary to carry out the purpose of this Ordinance.

**SECTION 5.** This ordinance shall become effective December 25, 2005, unless it receives the eight votes requisite to immediate effectiveness under City Code of San Antonio § 1-15, in which case it shall be effective immediately.

**PASSED AND APPROVED** this 15<sup>th</sup> day of December, 2005.

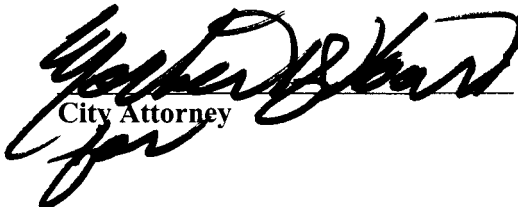
  
M A Y O R

**PHIL HARDBERGER**

Attest:

  
City Clerk

Approved As To Form:

  
City Attorney

# Agenda Voting Results

**Name:** 39.

**Date:** 12/15/05

**Time:** 03:10:31 PM

**Vote Type:** Multiple selection

**Description:** An Ordinance authorizing a license renewal to the Hearst Newspapers Partnership, L.P. (San Antonio Express News) to occupy space beneath the sidewalk at Third Street and Ave. E, adjacent to New City Block 427, located in District 1, for payment to the City of San Antonio in the amount of \$5,500.00. [Presented by Rebecca Waldman, Director, Asset Management; Erik J. Walsh, Assistant to the City Manager]

Voter	Group	Status	Yes	No	Abstain
ROGER O. FLORES	DISTRICT 1		x		
SHEILA D. MCNEIL	DISTRICT 2		x		
ROLAND GUTIERREZ	DISTRICT 3		x		
RICHARD PEREZ	DISTRICT 4		x		
PATTI RADLE	DISTRICT 5		x		
DELICIA HERRERA	DISTRICT 6		x		
ELENA K. GUAJARDO	DISTRICT 7		x		
ART A. HALL	DISTRICT 8		x		
KEVIN A. WOLFF	DISTRICT 9		x		
CHIP HAASS	DISTRICT_10		x		
MAYOR PHIL HARDBERGER	MAYOR		x		

**CITY OF SAN ANTONIO**  
**DEPARTMENT OF ASSET MANAGEMENT**  
**CITY COUNCIL AGENDA MEMORANDUM**

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**TO:** Mayor and City Council

**FROM:** Rebecca Waldman, Director, Department of Asset Management

**DATE:** Thursday, December 15, 2005

**SUBJECT:** S.P. No. 321 - Request for a License renewal to the Hearst Newspapers Partnership, L.P. (San Antonio Express-News) to occupy space under the sidewalk at Third Street and Ave. E.

**PETITIONER:** Hearst Newspapers Partnership, L.P.  
Attn: John A. Chavana  
P.O. Box 2171  
San Antonio, Texas 78297-2171

**SUMMARY AND RECOMMENDATIONS**

This Ordinance will authorize a License renewal to the Hearst Newspapers Partnership, L.P. (San Antonio Express-News) to occupy space beneath the sidewalk at Third Street and Ave. E, adjacent to New City Block 427, located in Council District 1, for the total consideration of \$5,500.00.

Staff recommends approval of this Ordinance.

**BACKGROUND INFORMATION**

License renewal to the Express News Corporation to occupy space under the sidewalk at Third Street and Ave. E, Adjacent to New City Block 427, located in Council District 1.

**POLICY ANALYSIS**

This action is consistent with the City Code and Ordinances which require City Council approval for any private use of property owned or controlled by the City.

**FISCAL IMPACT**

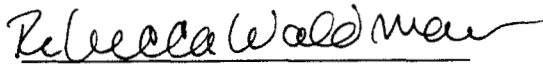
The City will collect \$5,500.00 for this license to use Public Right of Way.

**COORDINATION**

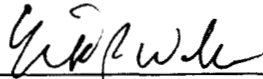
In compliance with City procedures, this request has been canvassed through interested City departments, public utilities and applicable agencies. A Canvassing Checklist and an executed Letter of Agreement, by which the petitioner agrees with all conditions imposed through this canvassing, are attached for review.

**FISCAL IMPACT**

The City will collect \$5,500.00 for this license to use Public Right of Way. An executed Discretionary Contracts Disclosure Statement from petitioner(s) is attached.



Rebecca Waldman, Director  
Department of Asset Management



Erik J. Walsh  
Assistant to the City Manager



Sheryl Sculley  
City Manager

**City of San Antonio**  
**Discretionary Contracts Disclosure**

*For use of this form, see Section 2-59 through 2-61 of the City Code (Ethics Code)  
Attach additional sheets if space provided is not sufficient.*

(1) Identify any individual or business entity<sup>1</sup> that is a **party** to the discretionary contract:

not applicable

(2) Identify any individual or business entity which is a **partner, parent** or **subsidiary** business entity, of any individual or business entity identified above in Box (1):

☐ No partner, parent or subsidiary; or

List partner, parent or subsidiary of each party to the contract and identify the corresponding party:

not applicable

(3) Identify any individual or business entity that would be a **subcontractor** on the discretionary contract:

☐ No subcontractor(s); or

List subcontractors:

not applicable

(4) Identify any **lobbyist** or **public relations firm** employed by any party to the discretionary contract for purposes related to seeking the discretionary contract.

☐ No lobbyist or public relations firm employed; or

List lobbyists or public relations firms:

not applicable

<sup>1</sup> A **business entity** means a sole proprietorship, partnership, firm, corporation, holding company, joint-stock company, receivership, trust, unincorporated association, or any other entity recognized by law. A sole proprietor should list the name of the individual and the d/b/a, if any.

**(5) Political Contributions**

List all political contributions totaling one hundred dollars (\$100) or more within the past twenty-four (24) months made to any *current or former member* of City Council, any *candidate* for City Council, or to any *political action committee* that contributes to City Council elections, by any individual or business entity whose identity must be disclosed under Box (1), (2), (3) or (4) above, or by the officers, owners of any business entity listed in Box (1), (2) or (3):

☐ No contributions made; If contributions made, list below:

By Whom Made:	To Whom Made:	Amount:	Date of Contribution:
none			

**(6) Disclosures in Proposals**

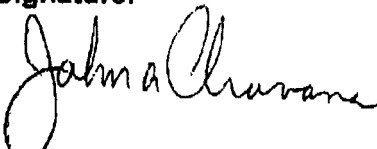
Any individual or business entity seeking a discretionary contract with the city must disclose any known facts which reasonably understood, raise a question<sup>2</sup> as to whether any city official or employee would violate Section 2-43 of the City Code (Ethics Code) ("conflicts of interest") by participating in official action relating to the discretionary contract.

☐ Party not aware of facts which would raise a "conflicts-of-interest" issue under Section 2-43 of the City Code; or

Party aware of the following facts:

not applicable

This form is required to be supplemented in the event there is any change in the information before the discretionary contract is the subject of council action, and no later than five (5) business days after any change about which information is required to be filed, whichever occurs first.

<b>Signature:</b> 	<b>Title:</b> Director of Finance Company or D/B/A: San Antonio Express-News	<b>Date:</b> 11-18-05
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<sup>2</sup> For purposes of this rule, facts are "reasonably understood" to "raise a question" about the appropriateness of official action if a disinterested person would conclude that the facts, if true, require recusal or require careful consideration of whether or not recusal is required.

**MARSH****CERTIFICATE OF INSURANCE**CERTIFICATE NUMBER  
NYC-000722767-02

## PRODUCER

MARSH USA INC.  
1166 Avenue of The Americas,  
New York, NY 10036-2774

THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER OTHER THAN THOSE PROVIDED IN THE POLICY. THIS CERTIFICATE DOES NOT AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES DESCRIBED HEREIN.

## COMPANIES AFFORDING COVERAGE

## COMPANY

A TRAVELERS INDEMNITY OF ILL.

## COMPANY

B TRAVELERS INDEMNITY CO OF CT

## COMPANY

C NATIONAL UNION FIRE INS. CO. OF PITTSBURGH, PA

## COMPANY

D

034835-San A-ALL-05-06

## INSURED

SAN ANTONIO EXPRESS-NEWS DIVISION  
AVENUE E & THIRD STREET  
P.O. BOX 2171  
SAN ANTONIO, TX 78297

## COVERAGES

THIS IS TO CERTIFY THAT POLICIES OF INSURANCE DESCRIBED HEREIN HAVE BEEN ISSUED TO THE INSURED NAMED HEREIN FOR THE POLICY PERIOD INDICATED. NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THE CERTIFICATE MAY BE ISSUED OR MAY PERTAIN, THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, CONDITIONS AND EXCLUSIONS OF SUCH POLICIES. AGGREGATE LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.

CO LTR	TYPE OF INSURANCE	POLICY NUMBER	POLICY EFFECTIVE DATE (MM/DD/YY)	POLICY EXPIRATION DATE (MM/DD/YY)	LIMITS
A	GENERAL LIABILITY	TC2JGLSA-178D3504-TIL-05	07/01/05	07/01/06	GENERAL AGGREGATE \$ 1,000,000
	<input checked="" type="checkbox"/> COMMERCIAL GENERAL LIABILITY				PRODUCTS - COMP/OP AGG \$ 1,000,000
	<input type="checkbox"/> CLAIMS MADE <input checked="" type="checkbox"/> OCCUR				PERSONAL & ADVINJURY \$ 1,000,000
	<input type="checkbox"/> OWNER'S & CONTRACTOR'S PROT				EACH OCCURRENCE \$ 1,000,000
					FIRE DAMAGE (Any one fire) \$ 1,000,000
					MED EXP (Any one person) \$ 10,000
A	AUTOMOBILE LIABILITY	TC2JCAP-178D353A-TIL-05	07/01/05	07/01/06	COMBINED SINGLE LIMIT \$ 1,000,000
B	<input checked="" type="checkbox"/> ANY AUTO	TC2ECAP-178D3541-TCT-05	07/01/05	07/01/06	BODILY INJURY (Per person) \$
	<input type="checkbox"/> ALL OWNED AUTOS				BODILY INJURY (Per accident) \$
	<input type="checkbox"/> SCHEDULED AUTOS				PROPERTY DAMAGE \$
	<input type="checkbox"/> HIRED AUTOS				
	<input type="checkbox"/> NON-OWNED AUTOS				
	GARAGE LIABILITY				AUTO ONLY - EA ACCIDENT \$
	<input type="checkbox"/> ANY AUTO				OTHER THAN AUTO ONLY \$
					EACH ACCIDENT \$
					AGGREGATE \$
C	EXCESS LIABILITY	BE 4484826	07/01/05	07/01/06	EACH OCCURRENCE \$ 5,000,000
	<input checked="" type="checkbox"/> UMBRELLA FORM				AGGREGATE \$ 5,000,000
	<input type="checkbox"/> OTHER THAN UMBRELLA FORM				\$
A	WORKERS COMPENSATION AND EMPLOYER'S LIABILITY	TRJUB-178D3565-05	07/01/05	07/01/06	<input checked="" type="checkbox"/> WC STATUTORY LIMITS \$
B	<input type="checkbox"/> THE PROPRIETOR/ PARTNER/EXECUTIVE OFFICERS ARE: <input type="checkbox"/> INCL <input type="checkbox"/> EXCL	TC2KJB-1783412-05	07/01/05	07/01/06	EL EACH ACCIDENT \$ 1,000,000
	OTHER				EL DISEASE-POLICY LIMIT \$ 1,000,000
					EL DISEASE-EACH EMPLOYEE \$ 1,000,000

## DESCRIPTION OF OPERATIONS/LOCATIONS/VEHICLES/SPECIAL ITEMS

THE CITY OF SAN ANTONIO, ITS ELECTED OFFICIALS, EMPLOYEES, AGENTS AND REPRESENTATIVES ARE INCLUDED AS ADDITIONAL INSURED. THERE EXISTS A WAIVER OF SUBROGATION IN FAVOR OF LICENSOR.

USE AND MAINTAIN A BASEMENT AREA EXTENDING UNDER THE SIDEWALK ALONG PORTIONS OF THIRD STREET AND AVENUE E

## CERTIFICATE HOLDER

CITY CLERK, CITY OF SAN ANTONIO  
ATN: RISK MANAGER  
P.O. BOX 839966/2ND FLOOR, CITY HALL  
SAN ANTONIO, TX 78283

## CANCELLATION

SHOULD ANY OF THE POLICIES DESCRIBED HEREIN BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF THE INSURER AFFORDING COVERAGE WILL ENDEAVOR TO MAIL 30 DAYS WRITTEN NOTICE TO THE CERTIFICATE HOLDER NAMED HEREIN, BUT FAILURE TO MAIL SUCH NOTICE SHALL IMPOSE NO OBLIGATION OR LIABILITY OF ANY KIND UPON THE INSURER AFFORDING COVERAGE, ITS AGENTS OR REPRESENTATIVES, OR THE ISSUER OF THIS CERTIFICATE

MARSH USA INC.

BY: RoseMarie Melillo

*RoseMarie Melillo*

MM1(3/02)

VALID AS OF: 09/13/05

c/s 321

GRANTING A LICENSE TO THE EXPRESS-NEWS CORPORATION TO OCCUPY SPACE UNDER THE SIDEWALK AT THIRD STREET AND AVENUE E, ADJACENT TO NEW CITY BLOCK 427, AND MANIFESTING AN AGREEMENT IN CONNECTION THEREWITH

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BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF SAN ANTONIO:

SECTION 1: This ordinance manifests an agreement between the City of San Antonio and The Express News Corporation, and its successors and assigns, hereinafter called "Licensee", whereby the City grants to Licensee a license to use and occupy space which lies under the sidewalk adjacent to the existing Express News production building and the proposed addition thereto, which building is located in N.C.B. 427 at N. Alamo Street, Third Street and Avenue E, and said basement area is located on the real property described in Exhibit "A" which is attached hereto and made a part hereof, and under the following terms and conditions:

a. The License hereby granted shall be for a term of 25 years beginning with the date hereof, unless terminated pursuant to the terms hereof. The City will consider, and Licensee may negotiate for, a renewal hereof at or prior to the time of the expiration hereof, pursuant to the provisions of Article XI of the City Charter.

b. As consideration of this grant, the Licensee shall pay to the City of San Antonio the sum of \$250.00 at the office of the City Treasurer in San Antonio, Bexar County, Texas. Such payment shall be made within ten days after the adoption of this ordinance and this payment shall constitute the license fee for the entire period covered by this license.

c. Any construction or activities planned by the applicant, affecting City Public Service facilities or access must be coordinated and approved by City Public Service in advance of commencement of said construction or activities. Any alteration, modification or relocation of the storm sewer drop inlet at the site must be shown on plans prepared by a Civil Engineer and approved by the City Drainage Engineer. Any plans and specifications for construction of a new addition or modification to the existing building unit must be approved by the City's Director of Building and Zoning.

d. All things required or permitted to be done by Licensee or its contractor(s) hereunder shall be done at the sole expense of Licensee.

e. City assumes no liability and no expense by reason of its grant of this license or its exercise, and City shall not be liable for any damages caused to the premises by reason of the granting of this license.

f. If it should become necessary that any relocation or adjustment be made in Licensee's improvements, by reason of the exercise of City's rights, powers and/or duties, such relocation or adjustments shall be done at Licensee's expense.

g. Licensee shall require his contractor or contractors performing work hereunder during the construction permitted hereby to carry (1) Workmen's Compensation insurance in statutory limits, if eligible, (2) Comprehensive General Liability insurance with limits of \$100,000. for each person for personal injuries or death and \$300,000. for each accident, and property damage liability insurance of \$50,000. for each accident and \$100,000. aggregate. Such liability insurance policies shall name the City as an additional insured and shall provide for ten days notice to the City in the event of alteration or cancellation.

h. Licensee agrees to provide the defense for, indemnify and hold harmless the City of San Antonio from each and every claim or demand of whatever nature, made by or on behalf of any person, firm or corporation arising out of or in any way connected with the grant of this license or its exercise by Licensee, its agents, employees or any persons, firm or corporation acting pursuant to a contract with Licensee.

i. Covenants and obligations of Licensee contained herein shall be covenants running with the land, binding upon its successors, legal representatives and assigns.

j. Any notice hereunder may be given by U. S. Certified or Registered Mail to the City of San Antonio by addressing: City Manager, City of San Antonio, P. O. Box



9066, San Antonio, Texas 78285, and to Licensee at the address shown below.

SECTION 2: The privileges granted hereunder shall be construed to be only those authorized by pertinent Texas statutes and the City Charter and not to include anything that is inconsistent with the rights of the public in the aforementioned right of way area.

PASSED AND APPROVED this 24th day of April, A.D., 1980.

Lila Cockrell

M A Y O R

ATTEST: [Signature]  
City Clerk

APPROVED AS TO FORM: [Signature]  
for City Attorney

ACCEPTED AND AGREED to in all things this 17 day of April, A.D., 1980.

THE EXPRESS NEWS CORPORATION

BY: [Signature]

P. O. Box 2171, San Antonio, Texas 78297  
Mailing address

STATE OF TEXAS }  
COUNTY OF BEXAR }

BEFORE ME, the undersigned authority, on this day personally appeared \_\_\_\_\_ of THE EXPRESS NEWS CORPORATION, known to me to be the person whose name is subscribed to the foregoing instrument and acknowledged to me that the same was the act of the said THE EXPRESS NEWS CORPORATION and that he executed the same as the act of such corporation for the purposes and consideration therein expressed, and in the capacity therein stated.

GIVEN UNDER MY HAND AND SEAL OF OFFICE, this the 17 day of April, 1980.

My Commission expires: June 30, 1980 [Signature] Notary Public in and for Bexar County, Texas

JAMES BUCKELEW  
Notary Public, Bexar County, Texas

STATE OF TEXAS  
COUNTY OF BEXAR  
CITY OF SAN ANTONIO

SS.

CERTIFIED COPY

The undersigned, the City Clerk of the City of San Antonio, in the State and County afore said, does by these presents certify that the attached and foregoing, is a true and exemplified copy of a part of the records, papers and books in the Office of the City Clerk; and, that I am the custodian of such papers, books and records as an officer of the City of San Antonio.

Given under my hand and the official seal of the City of San Antonio, this 6th

day of May, A. D. 1980

(SEAL)

[Signature]  
for City Clerk, City of San Antonio.

# License Agreement

(Express-News)

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This License Agreement ("License") is entered into by and between the City of San Antonio, a Texas municipal corporation, as "Licensor," acting by and through its City Manager, or the designee, pursuant to the Authorizing Ordinance and the Licensee named below.

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## 1. Pertinent Information.

### Authorizing Ordinance

(No. and Date):

Project No. SP 321

Licensee: Hearst Newspapers Partnership, L.P. (on behalf of the  
San Antonio Express-News Division)

Licensee's Address: P.O. Box 2171, San Antonio, Texas 78297-2171  
(Attention: David Wieters)

**Term:** May 1, 2005 to April 30, 2015

**Fee:** \$5,500.00

**Premises:** The real property situated in San Antonio, Bexar County, Texas more particularly described on **Exhibit A**, which is incorporated herein by reference for all purposes.

**Scope of License:** Use and maintain a basement area extending under the sidewalk along portions of Third Street and Avenue E

**Effective Date:** May 1, 2005

**Licensor's Address:** City Clerk, City of San Antonio, P.O. Box 839966/2nd Floor, City Hall, San Antonio, Texas 78283-3966

## **2. Grant of License.**

Licensor grants Licensee a license ("License") to use, maintain, and operate the Premises within the Scope of the License. This License is limited to the stated Term and is condition on Licensee's payment of the Fee.

## **3. Restrictions on Use/Recording**

**3.01** This License does not grant Licensee authority to use any area beyond the Premises.

**3.02 Licensor's Superior Interest.** This License grants only a privilege to use the Premises and is revocable by Licensor. This instrument does not convey any real property interest. Licensor reserves the right to enter upon the Premises at any time for asserting its real property interest or for other purposes.

**3.03 Recording.** A Memorandum of License Agreement, incorporated herein as **Exhibit "B"**, will be recorded by Licensor in the Official Public Records of Real Property of Bexar County, Texas. Licensee is responsible for recording fees.

## **4. License Fee**

Licensee must pay the Fee to Licensor in a one-time, lump-sum, or before the Effective Date of this License. The License Fee must be paid at the office of the Department of Asset Management, 114 W. Commerce St., 2nd Floor (c/o Property Disposition Manager), San Antonio, Texas 78205.

## **5. Construction, Maintenance, and Operations**

**5.01 Costs.** Licensee is solely responsible for all costs of construction, installation, repairs, maintenance, operation, and the like of any property placed in the Premises, (hereafter "Licensee's Responsibilities").

**5.02 No Liability.** Licenser assumes no liability or no expense under this License. Licenser is not liable to Licensee or otherwise for damage to the Premises arising from or related to activities of Licenser in the vicinity.

**5.03 Relocation.** If Licenser's needs require relocation, maintenance, or adjustment in the Premises or improvements by Licensee thereto, the relocation, maintenance, or adjustments will be at Licensee's sole cost and expense.

**5.04 Maintenance.** Licensee, at its sole cost and expense, must maintain all improvements constructed or installed by Licensee. In so doing, Licensee must adhere to all applicable safety standards and must adhere to all federal, state, or local laws, rules, or regulations.

**5.05 No Power to Bind.** Licensee cannot not bind or permit other to bind Licenser for payment of money or for any other obligation.

**5.06 Contractors and Subcontractors.** Licensee must promptly pay anyone who could file a mechanics' or materialmen's lien on the Premises. If any such lien is filed, Licenser may treat it as an event of default and terminate this License by delivering 10 days prior written notice to Licensee. Licensee remains obligated to clear the lien without cost to Licenser even after termination.

## **6. Specific Conditions**

Intentionally omitted.

## **7. Indemnity**

**7.01 Licensee must indemnify Licenser and its elected officials, employees, agents, and representatives of and from any all loss, cost, liability, or expense, including court costs and attorneys fees, arising from or relating to (a) the grant of this License, (b) Licensee's activities under this License, (c) or Licensee's activities or presence on or about the Premises, whether or not authorized by this License.**

**7.02 Nothing in this License waives any governmental immunity or other defenses available to Licenser under Texas law and without waiving any defenses of the parties under Texas Law.**

**7.03 This indemnity expressly covers the consequences of indemnitees' own negligence.**

**7.04** Licensee must promptly advise Licensor in writing of any claim or subject to this indemnity and must investigate and defend such claim at Licensee's cost. Notwithstanding any insurance policy, Licensor may, at its own expense, participate in the defense without relieving Licensee of any of its indemnity obligations.

**8. Insurance**

**8.01** Without limiting Licensor's rights to indemnity, Licensee must provide and maintain insurance, at its own expense, with companies admitted to do business in the State of Texas and with a rating of A- or better by A. M. Best and Company or provide evidence of self-insurance, in the following types and amounts:

Type	Amount
1. Worker's Compensation during the performance of improvements to the Premises or an approved alternate plan at other periods during the Term.	Statutory, with a waiver of subrogation in favor of Licensor
2. Employers' Liability during improvements to the Premises or an approved alternate plan at other periods during the Term.	\$500,000 per category, with a waiver of subrogation in favor of Licensor
3. Commercial General (Public) Liability -- to include coverage for the following where the exposure exists: (a) Premises/Operations (b) Independent Contractors (c) Products/Completed (d) Personal Injury Liability (e) Contractual Liability (f) Explosion, Collapse and Underground Property (g) Broad Form Property Damage	For Bodily Injury and Property Damage: \$1,000,000 per Occurrence, \$2,000,000 general aggregate or its equivalent in Umbrella or Excess Liability coverage.
4. Property Insurance -- for physical damage to the property of Licensee including improvements and betterments to the Premises.	Coverage for a minimum of 80% of the actual cash value of the improvements.

Any substitute for Workers' Compensation and Employer's Liability must be approved in advance by Licensor's Risk Manager.

**8.02** Licensor's Risk Manager may reasonably modify the requirements set forth above if he determines that such modification is in the Licensor's best interest. If Licensee believes the requested change is unreasonable, Licensee has 60 days to give notice of termination. The termination provisions hereof then apply.

**8.03** With respect to the above required insurance, each insurance policy required by this License must contain the following clauses:

"No insurance or self-insurance provided by Licensee can be canceled, limited in scope or coverage, or non-renewed until after 30 days' prior written notice has been given to:

- (a) City Clerk, City of San Antonio  
City Hall/Military Plaza  
P.O. Box 839966/2nd Floor, City Hall  
San Antonio, Texas 78283-3966  
Attention: Risk Manager

And

- (b) Department of Asset Management  
City of San Antonio  
P.O. Box 839966  
San Antonio, Texas 78283-3966  
Attention: Property Disposition Manager"

"Any insurance or self-insurance provided by Licensee is primary to any insurance or self-insurance maintained by the City of San Antonio."

"Any insurance or self-insurance maintained by the City of San Antonio applies in excess of, not in contribution with, insurance provided by this policy."

**8.04** Each insurance policy required by this License, excepting policies for Workers' Compensation, Employer's Liability and Professional Liability, must contain the following clause:

"The City of San Antonio, its elected officials, employees, agents, and representatives are added as additional insureds."

**8.06** Licensee must deliver to Licensor, within 30 days after the Effective Date, endorsements to the above-required policies adding the applicable clauses referenced above. Such endorsements must be signed by an authorized representative of the insurance company and show the signatory's company affiliation and title. Licensee must deliver to Licensor documentation acceptable to Licensor confirming the authority of those signing the endorsements.

**8.07** The Notices and Certificates of Insurance must be provided to:

- (a) City Clerk, City of San Antonio  
P.O. Box 839966/2nd Floor, City Hall  
San Antonio, Texas 78283-3966  
Attn: Risk Manager

**And**

(b) Department of Asset Management  
City of San Antonio  
P.O. Box 839966  
San Antonio, Texas 78283-3966  
Attn: Property Disposition Manager

8.08 This License does not limit Licensee's liability arising out of or related to the Premises or Licensee's activities thereon.

8.09 Licensee waives all claims against Licensor for injury to persons or property on or about the Premises, whether or not caused by Licensor's negligence.

## **9. Termination**

9.01 Licensor may terminate this License at any time before expiration by giving Licensee 30 days written notice.

9.02 Upon expiration or termination, all rights and privileges immediately cease, and Licensee must immediately cease use of the Premises. Licensor, at its option, may direct Licensee to either (a) abandon the encroaching improvements and appurtenances, including lines and equipment; or (b) remove all or any part of the improvements and appurtenances and restore the Premises, at Licensee's sole cost, to original condition. Improvements or appurtenances not removed within 90 days after termination of the License, whether by expiration or otherwise, become the property of Licensor. Licensor, may without liability to Licensee, dispose of such property at a public or private sale, without notice to Licensee. Licensee is liable for Licensor's costs incurred in connection with Licensee's property.

## **10. Assignment/Sublicensing**

This License cannot be assigned or sublicensed by Licensee, other than to Licensee's parent or subsidiaries. Licensee must give Licensor 30 days prior written notice before assigning or sublicensing to a parent or subsidiary. Licensee cannot lease or sublease the Premises.

## **11. Condemnation**

If the Premises are taken, in whole or in part, by eminent domain, then this License, at the option of Licensor, ceases on the date title to the land so taken or transferred vests in the condemning authority. Licensee waives all rights to any condemnation proceeds. Licensee may seek a separate condemnation award.

## **12. Attorney's Fees and Court Costs.**

In any action in which Licensee is found to have materially defaulted hereunder, Licenser can recover from Licensee its reasonable attorney's fees.

## **13. Taxes and Licenses**

Licensee must pay, on or before their respective due dates, to the appropriate collecting authority, all federal, state, and local taxes, license fees, permit fees, debts, and obligations, now or hereafter levied on the Premises or on Licensee or its property.

## **14. Prohibited Interests in Contracts**

**14.01.** The Charter of the City of San Antonio and its Ethics Code prohibit a City officer or employee, as defined in Section 2-52 of the Ethics Code, from having a financial interest in any contract with the City or any City agency such as city owned utilities. An officer or employee has a "prohibited financial interest" in a contract with the City or in the sale to the City of land, materials, supplies or service, if any of the following individual(s) or entities is a party to the contract or sale:

- (a) a City officer or employee;
- (b) his parent, child or spouse;
- (c) a business entity in which the officer or employee, or his parent, child or spouse owns (i) 10% or more of the voting stock or shares of the business entity, or (ii) 10% or more of the fair market value of the business entity;
- (d) a business entity in which any individual or entity above listed is a (i) subcontractor on a City contract, (ii) a partner, or (iii) a parent or subsidiary business entity.

**14.02** Licensee warrants and certifies as follows:

- (a) Licensee and its officers, employees and agents are neither officers nor employees of the City.
- (b) Licensee has tendered to the City a Discretionary Contracts Disclosure Statement in compliance with the City's Ethics Code.

**14.03.** Licensee acknowledges that City's reliance on the above warranties and certifications is reasonable.



## **15. Licensee Financing.**

Licensee may encumber Licensee's personal property located within the Premises, and any lien of Licensors against Licensee's personal property (whether by statute or under the terms of this License) is subject and subordinate to such security interest. Licensors will execute such documents as Licensee's lenders may reasonably request in connection with any such financing, if the documents do not modify the rights and obligations of this License. The City Manager of the City of San Antonio or a designee, including the Director, Department of Asset Management, is authorized hereunder to execute such documents, without the necessity of a specific City of San Antonio ordinance. But if the documents modify the rights and obligations of the License, then the documents can be approved only by specific ordinance.

## **16. Lien for License Fee, Taxes, Fees, and Other Charges.**

Licensee grants Licensors a security interest in all Licensee's property now or hereafter placed on the Premises. The security interest secures payment of the Fee and all taxes, fees, and other charges to be paid by Licensee hereunder. Encumbered property may be disposed of free of the security interest in the ordinary course of business. At Licensors's request, Licensee must execute and deliver to Licensors a financing statement. This security interest is cumulative of any liens provided by law.

## **17. Consent/Approval of Licensors.**

Licensors's consent and approval may be granted by the Director, Department of Asset Management, City of San Antonio ("City"), as designee of the City Manager, unless the City Charter requires that the City Council consent by the passage of a City ordinance.

## **18. Subsequent Transfer by Licensors.**

**18.01** Upon written request, Licensee must, in writing,

(a) subordinate this License to the interest of any transferee of the Premises and to the lien of any mortgage or deed of trust, now or hereafter in force encumbering the Premises and to all advances made or hereafter to be made upon the security thereof

(b) attorn to any transferee of Licensors and

(c) if Licensee is not in default hereunder, execute and deliver a Certificate of Estoppel and Subordination, Non-Disturbance and Attornment Agreement in form and substance acceptable to Licensors, if the transferee agrees not to disturb Licensee's possession of the Premises.

**18.02. Foreclosure.** Licensee must attend to the purchaser at any foreclosure sale and recognize such sale and such purchaser as Licensor, if the purchaser recognizes Licensee's rights under this License and agrees not to disturb Licensee's possession of the Premises so long as Licensee is not in default hereunder.

## **19. Miscellaneous Provisions**

**19.01. Relationship Limited.** This instrument creates only the relationship of Licensor and Licensee. The parties are not principal and agent, partners, joint venturers, or participants in any other enterprise between them.

**19.02. Nondiscrimination.** Licensee must not discriminate against any individual or group on account of race, color, gender, age, religion, national origin, or handicap, in employment practices or in the use of the Premises.

**19.03. Release From Liability/Notice of Sale.** If Licensor transfers ownership of the Premises, Licensor will have no liability or obligation relating to the period after transfer. Licensor's transferee will succeed to all Licensor's rights hereunder.

**19.04. Yielding Up.** Licensee must, at termination, whether by expiration or otherwise, yield the Premises up peacefully, including any improvements and fixtures (other than trade fixtures).

**19.05. Authority To Execute.** The party or parties executing this License on behalf of Licensee personally warrant that each of them has full authority to do so.

**19.06. Acknowledgment Of Reading.** The parties acknowledge that they have thoroughly read this License, including any exhibits or attachments, and have sought and received whatever advice and counsel was necessary to form a full and complete understanding of their rights and obligations and, having so done, execute this License freely and voluntarily.

**19.07. Applicable Law.** This License is entered into in San Antonio, Bexar County, Texas. **The Construction Of This License And The Rights, Remedies, And Obligations Arising Thereunder Are Governed By The Laws Of The State Of Texas.** But the Texas conflicts of law rules must not cause the application of the laws of a jurisdiction other than Texas. The obligations performable hereunder by both parties are performable in San Antonio, Bexar County, Texas.

**19.08. Severability.** If any portion hereof is determined to be invalid or unenforceable, the determination does not affect the remainder hereof.

**19.09. Successors.** This License inures to the benefit of and binds the heirs, representatives, successors, and permitted assigns of each party. This clause does not authorize any assignment not otherwise authorized.

**19.10. Integration.** This Written License Represents The Final Agreement Between The Parties And May Not Be Contradicted By Evidence Of Prior, Contemporaneous, Or Subsequent Oral Agreements Of The Parties. There Are No Oral Agreements Between The Parties.

**19.11. Modification.** This License may not be changed orally but only by a written agreement, signed by the party against whom enforcement of any modification is sought. No such modification, express or implied, affects the right of the modifying party to require observance of either (i) any other term or (ii) the same term or condition as it applies on a subsequent or previous occasion.

**19.12. Third Party Beneficiaries.** This License is intended for the benefit of the parties hereto and their successors and permitted assigns only. There are no third party beneficiaries.

**19.13. Notices.** Any notice provided for or permitted hereunder must be in writing and by certified mail, return receipt requested, addressed to the parties at their respective addresses set forth at the beginning. If the addressee is a corporation, notices must be addressed to the attention of its President. The giving of notice is complete three days after its deposit, properly addressed and postage prepaid, with the United States Postal Service. Failure to use certified mail does not defeat the effectiveness of notice actually received, but such notice is effective only on actual receipt. Address for notice may be changed by giving notice hereunder.

**19.14. Pronouns.** In construing this License, plural constructions include the singular, and singular constructions include the plural. No significance attaches to whether a pronoun is masculine, feminine, or neuter. The words "herein," "hereof," and other, similar compounds of the word "here" refer to this entire License, not to any particular provision of it.

**19.15. Captions.** Paragraph captions in this License are for ease of reference only and do not affect the interpretation hereof.

**19.16. Counterparts.** This License may be executed in multiple counterparts, each of which is an original, whether or not all parties sign the same document. Regardless of the number of counterparts, they constitute only one agreement. In making proof of this License, one need not produce or account for more counterparts than necessary to show execution by or on behalf of all parties.

**19.17. Further Assurances.** The parties must execute and deliver such additional documents and instruments as may be required to effect fully the provisions hereof. No such additional document(s), however, may alter the rights or obligations of the parties as contained in this License

**19.18. Ambiguities Not to Be Construed against Drafter.** Any ambiguities found in this License must be resolved without resort to construction against the drafter.

In Witness Whereof, the parties have caused their representatives to set their hands:.

**Licensors:**

**City of San Antonio,**  
a Texas municipal corporation

By: \_\_\_\_\_

Printed  
Name: \_\_\_\_\_

Title: \_\_\_\_\_

Date: \_\_\_\_\_

**Licensee:**

Hearst Newspapers Partnership, L.P, by  
and through its sole general partner

Hearst Communications, Inc., a  
Delware corporation

By: John A. Chavana

Printed  
Name: JOHN A. CHAVANA

Title: DIRECTOR OF FINANCE

Date: 9-16-05

**Attest:**

\_\_\_\_\_  
City Clerk

**Approved As To Form:**

\_\_\_\_\_  
City Attorney

## Exhibit A

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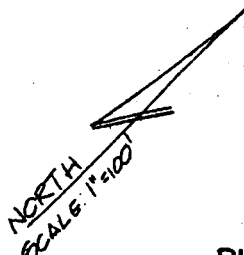
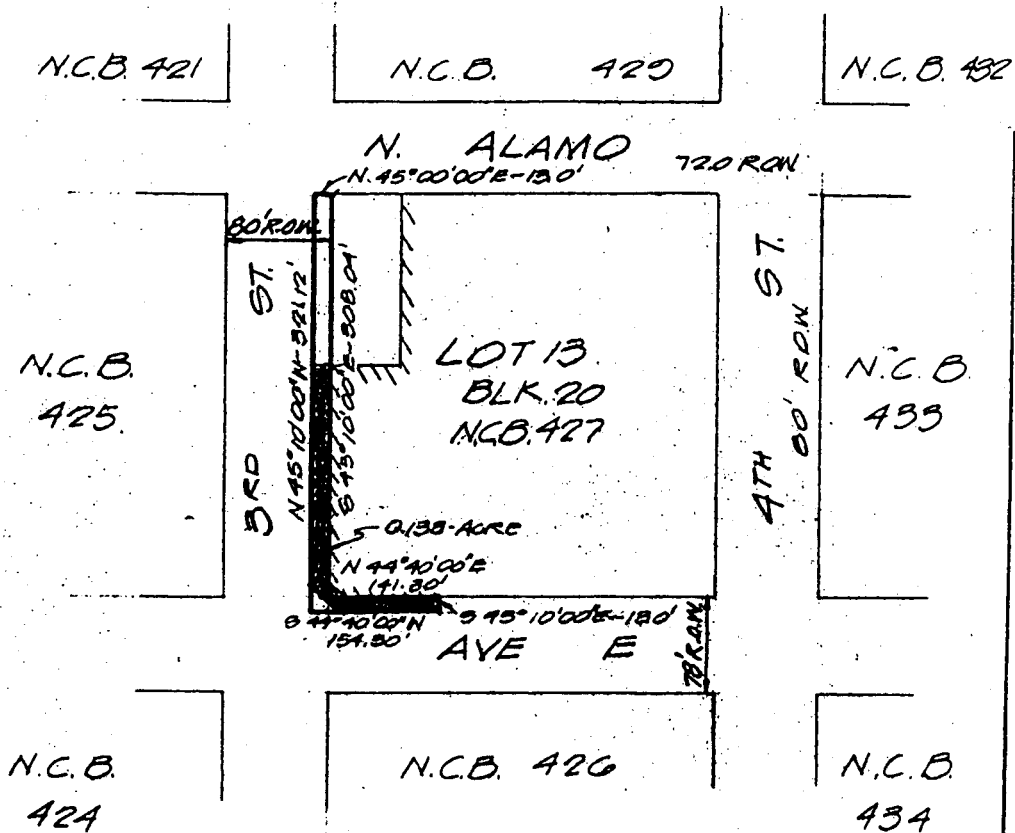
### EXHIBIT "A"

0.138 acres of land being out of a public right-of-way of the City of San Antonio, Bexar County, Texas, said 0.138 acres of land being more particularly described as follows to wit:

- Beginning: at the West corner of Lot 13 Block 20, New City Block 427, according to Plat thereof recorded in Volume 5870 Page 15 of the Deed and Plat Records of Bexar County, Texas, for a corner of the herein described tract;
- Thence: S 45° 10' 00" E, 308.04 feet with the Southwest line of said lot 13 and the Northeast line of Third Street to a point for a corner of the herein described tract;
- Thence: N 44° 40' 00" E, 141.30 feet with the Southeast line of said lot 13 and the Northwest line of Avenue E to a point for a corner of the herein described tract;
- Thence: S 45° 10' 00" E, 13.00 feet to a point for the East corner of the herein described tract;
- Thence: S 44° 40' 00" W, 154.30 feet with a line 13.00 feet Southeast of and parallel with the Southeast line of said Lot 13, Block 20, New City Block 427, to a point for the South corner of the herein described tract;
- Thence: N 45° 10' 00" W, 321.12 feet with a line 13.00 feet Southwest of and parallel with the Southwest line of said Lot 13, Block 20, New City Block 427, to a point for the West corner of the herein described tract;
- Thence: N 45° 00' 00" E, 13.00 feet to the point of beginning containing 0.138 acres of land more or less

NOTE: SHADED AREA INDICATES  
EXISTING EASEMENT  
ENCROACHMENT

NOTE: IRON PINS FOUND AT ALL  
PROPERTY CORNERS UNLESS  
OTHERWISE INDICATED.



RECEIVED  
APR 14 '80

STATE LAND ACQ. DEPT.

**VICKREY & ASSOCIATES, Inc.**  
CONSULTING ENGINEERS  
7524 BLANCO ROAD SUITE 100 • SAN ANTONIO, TEXAS 78216 • 512-340-3271

PLAT OF 0.138 ACRES OF LAND  
BEING OUT OF A PUBLIC RIGHT-OF-  
WAY OF THE CITY OF SAN ANTONIO,  
DEKAR COUNTY, TEXAS.

## Exhibit B

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### Memorandum of License Agreement

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This is a Memorandum of License Agreement ("Agreement") entered into by and between Licensee and the City of San Antonio, a Texas municipal corporation (Licensor), acting by and through its City Manager, or designee, pursuant to the Authorizing Ordinance.

**Authorizing Ordinance  
(No. and Date):**

**Licensee:** Hearst Newspapers Partnership, L.P. (on behalf of the San Antonio Express-News Division)

**Licensee's Address:** P.O. Box 2171, San Antonio, Texas 78297-2171  
(Attention: David Wieters)

**Term:** 10 Years from the Effective Date

**Premises:** The real property situated in San Antonio, Bexar County, Texas more particularly described on **Exhibit A**, which is incorporated herein by reference for all purposes.

**Scope of License:** Use and maintain a basement area extending under the sidewalk along portions of Third Street and Avenue E

**Effective Date:** May 1, 2005

**Licensor's Address:** City Clerk, City of San Antonio, P.O. Box 839966/2nd Floor, City Hall, San Antonio, Texas 78283-3966

Licensor has granted a license to Licensee as described above. For more detailed terms, refer to the License Agreement.

The License is personal to Licensee and cannot be assigned or sublicensed except as provided in the License.

In Witness Whereof, the parties have caused their representative to hereunto set their hands.

**Licensor:**

**City of San Antonio,**  
a Texas municipal corporation

By: \_\_\_\_\_

Printed  
Name: \_\_\_\_\_

Title: \_\_\_\_\_

Date: \_\_\_\_\_

**Licensee:**

Hearst Newspapers Partnership, L.P, by  
and through its sole general partner

Hearst Communications, Inc., a  
Delaware corporation

By: John A Chavana

Printed  
Name: JOHN A CHAVANA

Title: Director of Finance

Date: 9-16-05

**Attest:**

\_\_\_\_\_  
City Clerk

**Approved As To Form:**

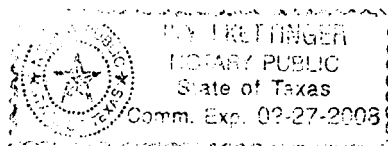
\_\_\_\_\_  
City Attorney



STATE OF TEXAS           §  
                                     §  
COUNTY OF BEXAR       §

This instrument was acknowledged before me by \_\_\_\_\_,  
\_\_\_\_\_ of the City of San Antonio, a Texas municipal corporation, on  
behalf of said municipal corporation.

Dated: \_\_\_\_\_



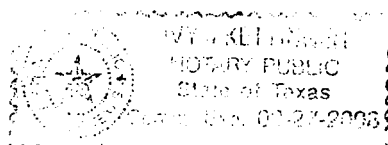
Amy G. Kettinger  
Notary Public, in and for State of Texas

My Commission Expires: 2/27/08

STATE OF TEXAS           §  
                                     §  
COUNTY OF BEXAR       §

This instrument was acknowledged before me by \_\_\_\_\_,  
\_\_\_\_\_ of Hearst Communications, Inc., in that entities capacity as  
sole general partner of Hearst Newspapers Partnership, L.P. on behalf of that  
partnership in the capacity stated.

Dated: \_\_\_\_\_



Amy G. Kettinger  
Notary Public, in and for State of Texas

My Commission Expires: 2/27/08

After Recording Return to:

Hearst Newspapers Partnership, L.P.—San Antonio Express-News Division  
P.O. Box 2171  
San Antonio, Texas 78297-2171  
(Attention: David Wieters)

DO NOT TYPE IN THIS SPACE		For CMO Use Only							
<table border="1" style="width: 100%; border-collapse: collapse;"> <tr> <td colspan="2" style="text-align: center; font-weight: bold;">Approval</td> </tr> <tr> <td style="width: 50%; text-align: center;">Finance</td> <td style="width: 50%; text-align: center;">Budget</td> </tr> <tr> <td style="text-align: center;">Legal</td> <td style="text-align: center;">Coordinator</td> </tr> </table>		Approval		Finance	Budget	Legal	Coordinator	<div style="text-align: center;"> <b>CITY OF SAN ANTONIO</b>  <b>Request for Ordinance/Resolution</b> </div>	
Approval									
Finance	Budget								
Legal	Coordinator								
		Date Considered _____ Consent <input checked="" type="checkbox"/> Individual <input type="checkbox"/> Public Hearing <input type="checkbox"/> Item No. <u>39</u> Ord. No. _____							
Date: <u>01-Dec-05</u>		Department: <u>Asset Management</u>							
Date Council Consideration Requested: <u>15-Dec-05</u>		Contact Person/Phone No.: <u>Rebecca Waldman Ext. 7114</u> Dept. Head Signature: <i>Rebecca Waldman</i>							
SUMMARY OF ORDINANCE									
<p>This Ordinance will authorize a License renewal to the Hearst Newspapers Partnership, L.P. (San Antonio Express-News) to occupy space beneath the sidewalk at Third Street and Ave. E, adjacent to New City Block 427, located in Council District 1, for the total consideration of \$5,500.00.</p> <p>Staff recommends approval of this Ordinance.</p> <p style="text-align: center; margin-top: 100px;">Council Memorandum Must be Attached to Original</p>									
Other Depts., Boards, Committees Involved (please specify): The City of San Antonio's Planning Commission will consider this request at its regular meeting of .									
Contract signed by other party: <div style="float: right;">           Yes <input type="checkbox"/>    No <input type="checkbox"/> </div>									
FISCAL DATA (if applicable)									
Amount Expended		Funds/Staffing Budgeted    Yes <input type="checkbox"/> No <input type="checkbox"/>							
Fund _____    SAP GL Account <u>4202410</u>		Positions Currently Authorized    Yes <input type="checkbox"/> No <input type="checkbox"/>							
*Cost Center _____		Impact of Future O and M							
*Internal Order No. <u>22400000000</u> *WBS Element (Capital Proj.) _____		If positions added, specify Class and No.							
*(Fill out only the field that is appropriate to your Council action.)									
<b>Comments:</b> Council District No. 1									
Please submit 3 copies with your original									